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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

AUG 11 2008

Aug 11, 2008

MICHAEL W. DOBBINS

CLERK, U.S. DISTRICT COURT

Hector Saldaña Sr.  
2090 Foxtail Dr.  
Aurora IL 60504  
(Name of the plaintiff or plaintiffs)

CIVIL ACTION

v.  
Caterpillar Inc.  
(Name of the defendant or defendants)

08CV4519  
JUDGE COAR  
MAGISTRATE JUDGE COLE

**COMPLAINT OF EMPLOYMENT DISCRIMINATION**

1. This is an action for employment discrimination.
2. The plaintiff is Hector Saldaña Sr. of the  
county of Kane in the state of Illinois.
3. The defendant is Caterpillar Inc., whose  
street address is P.O. Box 348  
(city) Aurora (county) Kendall (state) IL (ZIP) 60507  
(Defendant's telephone number) (430)-859-5000
4. The plaintiff sought employment or was employed by the defendant at (street address)  
Caterpillar Inc. (city) Aurora  
(county) Kendall (state) IL (ZIP code) 60507
5. The plaintiff [check one box]
  - (a) ☐ was denied employment by the defendant.
  - (b) ☒ was hired and is still employed by the defendant.
  - (c) ☐ was employed but is no longer employed by the defendant.

6. The defendant discriminated against the plaintiff on or about, or beginning on or about, (month) 01, (day) 22, (year) 2008.

7.1 (Choose paragraph 7.1 or 7.2, do not complete both.)

(a) The defendant is not a federal governmental agency, and the plaintiff *[check one box]* ☐ has ~~not~~ ☒ has filed a charge or charges against the defendant asserting the acts of discrimination indicated in this complaint with any of the following government agencies:

(i) ☒ the United States Equal Employment Opportunity Commission, on or about (month) 02 (day) 25 (year) 2008.

(ii) ☐ the Illinois Department of Human Rights, on or about (month) \_\_\_\_\_ (day) \_\_\_\_\_ (year) \_\_\_\_\_.

(b) If charges were filed with an agency indicated above, a copy of the charge is attached. ☒ YES. ☐ NO, but plaintiff will file a copy of the charge within 14 days.

It is the policy of both the Equal Employment Opportunity Commission and the Illinois Department of Human Rights to cross-file with the other agency all charges received. The plaintiff has no reason to believe that this policy was not followed in this case.

7.2 The defendant is a federal governmental agency, and

(a) the plaintiff previously filed a Complaint of Employment Discrimination with the defendant asserting the acts of discrimination indicated in this court complaint.

☐ Yes (month) \_\_\_\_\_ (day) \_\_\_\_\_ (year) \_\_\_\_\_

☐ No, did not file Complaint of Employment Discrimination

2. The plaintiff received a Final Agency Decision on (month) \_\_\_\_\_ (day) \_\_\_\_\_ (year) \_\_\_\_\_.

c. Attached is a copy of the

a. Complaint of Employment Discrimination,

☐ YES ☐ NO, but a copy will be filed within 14 days.

(ii) Final Agency Decision

☐ YES ☐ NO, but a copy will be filed within 14 days.

8. *(Complete paragraph 8 only if defendant is not a federal governmental agency.)*

(a) ☐ the United States Equal Employment Opportunity Commission has not issued a *Notice of Right to Sue*.

(b) ☐ the United States Equal Employment Opportunity Commission has issued a *Notice of Right to Sue*, which was received by the plaintiff on (month) \_\_\_\_\_ (day) \_\_\_\_\_ (year) \_\_\_\_\_ a copy of which *Notice* is attached to this complaint.

9. The defendant discriminated against the plaintiff because of the plaintiff's [*check only those that apply*]:

- (a) ☐ Age (Age Discrimination Employment Act).
- (b) ☐ Color (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (c) ☐ Disability (Americans with Disabilities Act or Rehabilitation Act)
- (d) ☒ National Origin (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (e) ☒ Race (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (f) ☐ Religion (Title VII of the Civil Rights Act of 1964)
- (g) ☐ Sex (Title VII of the Civil Rights Act of 1964)

10. If the defendant is a state, county, municipal (city, town or village) or other local governmental agency, plaintiff further alleges discrimination on the basis of race, color, or national origin (42 U.S.C. § 1983).

11. Jurisdiction over the statutory violation alleged is conferred as follows: for Title VII claims by 28 U.S.C. §1331, 28 U.S.C. §1343(a)(3), and 42 U.S.C. §2000e-5(f)(3); for 42 U.S.C. §1981 and §1983 by 42 U.S.C. §1988; for the A.D.E.A. by 42 U.S.C. §12117; for the Rehabilitation Act, 29 U.S.C. § 791.

12. The defendant [*check only those that apply*]

- (a) ☐ failed to hire the plaintiff.
- (b) ☐ terminated the plaintiff's employment.
- (c) ☐ failed to promote the plaintiff.

- (d) ☐ failed to reasonably accommodate the plaintiff's religion.  
 (e) ☐ failed to reasonably accommodate the plaintiff's disabilities.  
 (f) ☐ failed to stop harassment;  
 (g) ☐ retaliated against the plaintiff because the plaintiff did something to assert rights protected by the laws identified in paragraphs 9 and 10 above;

(h) ☒ other (specify): took no action at all  
for this incident. I never received  
an apology from the company or defendant.  
Caterpillar Code of Conduct is 0 tolerance  
for any discrimination, racial or sexual  
that they did not abide by.

13. The facts supporting the plaintiff's claim of discrimination are as follows:

I went to the EEOC and all records  
are attached.

14. **[AGE DISCRIMINATION ONLY]** Defendant knowingly, intentionally, and willfully discriminated against the plaintiff.

15. The plaintiff demands that the case be tried by a jury. ☐ YES ☐ NO

16. THEREFORE, the plaintiff asks that the court grant the following relief to the plaintiff  
 [check only those that apply]

- (a) ☐ Direct the defendant to hire the plaintiff.  
 (b) ☐ Direct the defendant to re-employ the plaintiff.  
 (c) ☐ Direct the defendant to promote the plaintiff.  
 (d) ☐ Direct the defendant to reasonably accommodate the plaintiff's religion.  
 (e) ☐ Direct the defendant to reasonably accommodate the plaintiff's disabilities.

(f) ☐ Direct the defendant to (specify): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(g) ☐ If available, grant the plaintiff appropriate injunctive relief, lost wages, liquidated/double damages, front pay, compensatory damages, punitive damages, prejudgment interest, post-judgment interest, and costs, including reasonable attorney fees and expert witness fees.

(h) ☐ Grant such other relief as the Court may find appropriate.

(Plaintiff's signature)

Hector Saldaña SR.

(Plaintiff's name)

Hector Saldaña SR.

(Plaintiff's street address)

2090 Foxtail Dr.

(City) Aurora (State) IL (ZIP) 60504

(Plaintiff's telephone number) (630) - 851-6118

Date: 8-11-08

EEOC Form 5 (5/01)

<b>CHARGE OF DISCRIMINATION</b> This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC <b>440-2008-03170</b>	
<b>Illinois Department Of Human Rights</b> and EEOC <i>State or local Agency, if any</i>			
Name (Indicate Mr., Ms., Mrs.) <b>Mr. Hector Saldana</b>		Home Phone (Incl. Area Code) <b>(630) 851-6118</b>	Date of Birth <b>03-09-1947</b>
Street Address City, State and ZIP Code <b>2090 Foxhall Drive, Aurora, IL 60504</b>			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name <b>CATERPILLAR INC AURORA FACILITY</b>		No. Employees, Members <b>500 or More</b>	Phone No. (Include Area Code) <b>(630) 859-5000</b>
Street Address City, State and ZIP Code <b>P O Box 348, Aurora, IL 60507</b>			
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address City, State and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es).) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify below.)		DATE(S) DISCRIMINATION TOOK PLACE Earliest                      Latest <b>01-22-2008                      01-22-2008</b> <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): I began employment with Respondent in 1968. My current position is Maintenance Specialist. I was subjected to derogatory slurs.  I believe I have been discriminated against because of my national origin, Mexican, in violation of Title VII of the Civil Rights Act of 1964, as amended.			
<div style="font-size: 1.5em; font-weight: bold; margin: 10px 0;">RECEIVED EEOC</div> <div style="font-size: 1.2em; font-weight: bold; margin: 10px 0;">FEB 25 2008</div> <div style="font-size: 1.2em; font-weight: bold; margin: 10px 0;">CHICAGO DISTRICT OFC</div>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT	
Feb 25, 2008 <u>Hector Saldana</u> Date Charging Party Signature		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	